



**AGENDA**  
**RIO DELL PLANNING COMMISSION**  
**SPECIAL MEETING— 6:30 P.M**  
**TUESDAY, APRIL 12, 2016**  
**CITY COUNCIL CHAMBERS**  
**675 WILDWOOD AVENUE, RIO DELL**

**WELCOME . . .** *By your presence in the City Council Chambers, you are participating in the process of representative government. Copies of this agenda, staff reports and other material available to the Commission are available at the City Clerk's office in City Hall, 675 Wildwood Avenue. Your City Government welcomes your interest and hopes you will attend and participate in Rio Dell Planning Commission meetings often.*

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. PLEDGE OF ALLEGIANCE**

**D. CONSENT CALENDAR**

- |   |    |
|---|----|
| 1) 2016/0412.01 - Approve Minutes of the March 8, 2016 Special Meeting ( <b>ACTION</b> )  | 1  |
| 2) 2016/0412.02 - Approve Minutes of the March 22, 2016 Regular Meeting ( <b>ACTION</b> ) | 15 |

**E. PUBLIC PRESENTATIONS**

*This time is for persons who wish to address the Commission on any matter not on this agenda and over which the Commission has jurisdiction. As such, a dialogue with the Commission or staff is not intended. Items requiring Commission action not listed on this agenda may be placed on the next regular agenda for consideration if the Commission directs, unless a finding is made by at least 2/3rds of the Commission that the item came up after the agenda was posted and is of an urgency nature requiring immediate action. Please limit comments to a maximum of 3 minutes.*

**F. SPECIAL MEETING MATTERS**

- |   |    |
|---|----|
| 1) 2016/0412.03 - Recommendations on Testing Laboratories and Dispensaries/Consideration of Draft Commercial Medical Marijuana Land Use Ordinance (CMMLUO), Section 17.30.195 of Title 17 of the Rio Dell Municipal Code<br>( <b>DISCUSSION/POSSIBLE ACTION</b> ) | 26 |
|---|----|

**G. ADJOURNMENT**



**In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (707) 764-3532. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.**

***The next Regular meeting is scheduled for Tuesday, April 26, 2016 at 6:30 p.m.***

**CITY OF RIO DELL  
PLANNING COMMISSION  
SPECIAL MEETING  
MARCH 8, 2016**

A Special meeting of the Rio Dell Planning Commission was called to order at 6:30 p.m. by Commissioner Angeloff.

Present were Commissioners Angeloff, Long, Millington and Woodall.

Others present were Community Development Director Caldwell and City Clerk Dunham.

Commissioner Angeloff announced that Billie Joe Long was reappointed to the Planning Commission and sworn in prior to the meeting being called to order.

**PUBLIC PRESENTATIONS**

None

**SPECIAL MEETING MATTERS**

Cultivation Recommendations - Medical Marijuana Commercial Land Use Regulations. Section 17.30.195 of the Rio Dell Municipal Code (RDMC)

Community Development Director Caldwell provided a staff report and said at the last Planning Commission meeting on February 23, 2016, the Commission elected to break down the discussion of the Medical Marijuana Land Use Ordinance into three meetings. He said at this meeting there will be discussion on Cultivation provisions, followed by discussion of Manufacturing provisions at the meeting of March 22, 2016, and discussion on Testing Laboratories and Dispensaries at the meeting of April 12, 2016.

He noted that Councilmember Garnes was present to review the time frame for adoption of the regulations related to getting a ballot measure on the November General Election ballot.

Councilmember Garnes began by thanking the Commission for addressing this issue and said it represents a very important economic development opportunity for the City.

She pointed out that there is a time frame with regard to getting the issue on the November ballot and encouraged the Commission to bring the meetings a little closer together should they go beyond the April 12, 2016 scheduled meeting.

She said rather than having redundancy, she hopes the City Council members interested in moving this forward can have their questions answered this evening. She stated that there are people interested in establishing legal businesses in Rio Dell but the reality is that these people are not going to wait forever; there are other places in Humboldt County they can turn to.

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She said her hope is that the Planning Commission and City Council is not afraid to act and understands the hesitation is because we're talking about a substance that has been illegal. She said if it was simply a pharmacy that wanted to come into Rio Dell, everyone would welcome it yet Palco Pharmacy was robbed at gun point twice. She noted that the businesses being discussed recognize the security issues so they're going to be diligent to insure they have proper security systems in place.

She said to think that this industry will destroy Rio Dell is unrealistic and noted that Arcata has had medical marijuana businesses for at least 10 years and they have every element required for disaster such as college students, homelessness and tourism yet they are doing fine. She referred to an article in Sunset Magazine related to the top 20 places to live in California and Santa Barbara was number one; Arcata was a runner up. She urged the Commission to not delay the process and miss the opportunity to get the issue on the November ballot.

Community Development Director Caldwell said on March 22, 2016 the Commission will be discussing Manufacturing including extractions, and commercial cannabis kitchens for edibles and on April 12, 2016, Dispensaries and Testing Laboratories. He said staff is hoping to be able to wrap up the discussions on April 12<sup>th</sup> and bring their recommendations to the City Council at their May 3, 2016 meeting. He said ideally, it would be nice to have the regulations in effect by July 1, 2016 which is the goal for getting the information to the elections department for the November ballot and presenting the excise tax proposal to the voters.

He commented that Councilmember Garnes is correct as there is somewhat of a compressed time frame. He said the City is lucky in the sense that the ordinance and performance standards were tailored based on the County's and the County has worked very closely with the State in developing those regulations.

Commissioner Angeloff asked if the Commission were to schedule another special meeting, if staff could handle the extra workload.

Community Development Director Caldwell stated the only issue is with regard to the 10-day noticing requirements. He suggested the Commissioners consider the dates of March 18<sup>th</sup>, March 21<sup>st</sup> or March 29<sup>th</sup> as potential dates for a special meeting. He suggested it be discussed at the end of tonight's discussion.

Community Development Director Caldwell said the focus of tonight's meeting will be on Cultivation provisions; specifically the three types of cultivation including outdoor, mixed-light, and indoor; the location of allowed cultivation sites; and performance standards.

He said staff is recommending the size of the cultivation (canopy) area be determined by the zoning/land use designation and the size of the parcel on which the activity is to be conducted. He said staff is not recommending any cultivation activities to be allowed in Urban Residential

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(UR) zones, however; staff has been contacted by a number of people who either are or are interested in cultivating on parcels located in the Urban Residential (UR) and Suburban (S) zones.

In addition, staff was originally recommending that Outdoor and Mixed-Light cultivation be limited to the Rural (R) and Natural Resources (NR) designations however; staff has also been contacted by a number of people who are interested in outdoor greenhouses and mixed-light cultivation on parcels designated Urban Residential (UR) and Suburban (S).

He referred to a chart of staff's recommended allowable canopy sizes based on parcel size and subject to the recommended Performance Standards and any other conditions deemed appropriate by the Planning Commission. He said the Commission may want to consider expanding the use to parcels greater than 1 acre in the Urban Residential zone.

**Melissa Marks** asked what the land use designation is on Joe Enes's property behind City Hall and whether he would be allowed to cluster greenhouses because of the slope of the property.

Community Development Director Caldwell explained the allowable canopy is merely based on parcel size.

**Gordon Johnson** questioned the recommended 50 foot setback from property lines.

Staff explained that the language was taken from the County's regulations and said they initially recommended a 30 foot setback then changed it to 50 foot based on public comment. He said if the Commission feels it is more appropriate to be less than 50 feet or more than 50 feet, they can make such recommendation to the City Council.

He said it should be noted that all Type 3 licenses, whether indoor, outdoor, or mixed light will be subject to a limited number of licenses issued by the State. He pointed out that Rio Dell is in somewhat of an advantageous position in that jurisdictions that have regulations on the books and actually have issued Type 3 permits locally will have preference standing from those that have not issued permits.

**Shaniah Williams** asked if there is a limit on Type 1 and 2 permits.

Community Development Director Caldwell explained that the State only limits the number on Type 3 licenses.

Commissioner Woodall asked what the minimum parcel size is in the Urban Residential (UR) designation.

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Staff responded that the current minimum lot size is 6,000 sq. ft. although there are a number of legal non-conforming lots in the UR zone.

Commissioner Woodall asked for clarification that essentially someone in the UR zone could have 1,000 sq. ft. of canopy.

Staff stated that she was correct although he would not recommend it on lots less than 1 acre. He said setbacks would need to be met and the smaller lots would have difficulty meeting the 50 foot required setback from property lines. He said that one of the reasons for the recommended setback is to minimize the impacts and although greenhouses will be required to have fans and filters, they are still going to be vented. He said although the smell will be minimized, there is no way to capture all of the odors. He said as staff is aware, the City gets a lot of complaints on odors associated with cultivation. He said the Commission might want to recommend smaller greenhouses and that the typical greenhouse in the industry is 20 feet wide. He said if the Commission is going to consider allowing commercial grows in the UR and S zones, he would recommend they have a minimum of 1 acre and would not recommend anything more than 1,000 sq. ft. of canopy. Also, to recommend the area be fenced and include video monitoring.

Commissioner Angeloff asked what the minimum parcel size is in the Rural (R ) designation and the size of the smallest parcel currently existing in that designation.

Community Development Director Caldwell stated the minimum parcel size is 5 acres but there are some parcels that are approximately 1 acre in size.

Discussion continued regarding the Natural Resources zone and whether that includes any private ownership.

Staff explained some of the lands in Metropolitan are privately owned but most of the NR lands along the river are owned by the State Lands Commission.

Commissioner Angeloff questioned the setbacks under the existing ordinance related to indoor grows of medical marijuana for personal use (50 sq. ft.).

Community Development Director Caldwell explained the existing regulations allow for indoor grows only but greenhouses are considered indoor as long as they are fully secured and lockable. He said setbacks are the typical setbacks of 20 foot front yard, 10 foot rear yard and 5 foot side yard. He reiterated that the greenhouses are required to have filters to minimize odors and complaints would be addressed based on a reactionary process. He said if they are found to be out of compliance, staff will ask them to install the proper filters etc. to bring the greenhouse into compliance.

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Community Development Director Caldwell pointed out that every operation associated with cannabis will be reviewed by the Planning Commissioner through the Conditional Use Permit (CUP) process and is subject to Performance Standards. If one or more of those performance standards is not met, the Planning Commission has the authority to revoke the permit.

Commissioner Woodall questioned the 2-year allowance to come into compliance.

Staff explained that the provision she was referring to in the ordinance relates to violations when someone does something without the required permits.

Commissioner Angeloff asked for a consensus from the Commission on outdoor greenhouses and mixed light cultivation in the Urban Residential (UR) and Suburban (S) designations and the potential impact on commercial grows.

Commissioner Woodall presented the scenario of an entire house used as a grow.

Staff said it would not be allowed and it would then become a commercial grow. He said it would have an adverse impact on the house and remove it from the housing market. He said he would not recommend anything close to 1,000 sq. ft. of canopy. He noted that a typical garage is 420 sq. ft. so 400 sq. ft. of canopy may be okay provided they could maintain the 50 foot setback requirement as well. He said not every Urban Residential or Suburban lot would be able to meet that setback. As such, he said he would recommend minimum parcel size, maximum canopy, and a required setback.

Commissioner Millington asked staff what the basis is for complaints related to residential grows.

Community Development Director Caldwell stated that odor is the main complaint.

Commissioner Woodall said she personally is against cultivation in the Urban Residential zone; especially commercial activity.

Community Development Director Caldwell commented that Chief Hill did express concern because of the dense nature of the Urban Residential neighborhoods.

Commissioner Long agreed and said the smell is offensive and should not be allowed in residential neighborhoods.

Commissioner Angeloff concurred that it should not be allowed in the Urban Residential zone.

The overall consensus of the Commission was that no cultivation be allowed in the Urban Residential zone.

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Discussion continued regarding the Suburban (S) zone and potential outdoor cultivation.

Community Development Director Caldwell noted that the minimum lot size in the Suburban (S) zone is 1 acre but many of the lots are larger than that. He commented that there are probably less than 20 parcels that are more than 1 care. He said he thinks 1 acre is a good threshold for the parcel size in which to allow outdoor cultivation.

Commissioner Angeloff expressed concern regarding areas of interest to tourists such as the end Edwards Dr. or Davis St. or parcels on Blue Slide Road to Ferndale and whether that is a good mix.

Staff acknowledged that he had a good point and said there are probably 5 or 6 parcels on Blue Slide Road that would be allowed for outdoor cultivation although may not be visible from the road. He pointed out that the Commission could impose additional performance standards.

Community Development Director Caldwell stated that the only reason those parcels at the end of Edwards Dr. or Davis St. were zoned Suburban (S) was due to the old wastewater treatment plant. He said the City had a limit on the number of sewer connections prior to the new treatment plant being constructed. He noted that if it weren't for that, they would have likely been designated at Urban Residential (UR).

Discussion ensued regarding the City's legal authority as well as legal liability.

Staff noted there is a Hold Harmless Agreement that basically indemnifies the City and staff and that a bill was passed that said no federal funds can be spent to enforce state cultivation regulations.

Community Development Director Caldwell said with regard to the parcels on Blue Slide Road, he is not sure the Suburban (S) designation is appropriate. He said it may be more appropriate to perhaps have a designation somewhere between the Rural designation and the Suburban designation or have a combined zone with a one-half acre minimum parcel size. He said he would not recommend that commercial cultivation be allowed within the Suburban or Urban Residential designations. He noted that it could possibly be broken down to the more isolated parcels on Blue Slide Road.

**Matthew Fortozzo** questioned the number of cultivators in the Suburban areas now and the odds of those parcels becoming vacant if cultivation is not allowed in that zone.

Community Development Director Caldwell stated that he would guess there may be somewhere between 6 to 12 properties that probably have grows that are not compliant with the City's 50 sq. ft. regulation.

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Commissioner Long said he is inclined to view the Suburban (S) zone the same as Urban Residential (UR).

Commissioner Millington stated that she was undecided.

Commissioner Woodall stated that she was conflicted as some of the parcels may be okay.

Commissioner Angeloff suggested holding off taking a closer look at parcel sizes and giving residents a more intimate opportunity to speak up. He said perhaps rezoning is an option.

Community Development Director Caldwell said he would do a tabulation of the parcels and parcel sizes located in the Suburban zone and bring the information back to the Commission at the next meeting.

Commissioner Millington suggested he make note of those suburban parcels in close proximity to Urban Residential neighborhoods.

**Tim Marks** referred to the Barisdale property at the end of Painter St. and presented the scenario of the neighboring parcel owned by the Catholic Church and potential residential development with a large grow next to it.

Staff noted that the Commission may want to increase the setbacks in some areas based on potential future residential development in the neighborhood.

Moving the discussion on to the Industrial Commercial (IC) zone, staff commented that they had not received a lot of interest regarding greenhouses in that zone.

Staff responded that in the Industrial Commercial (IC) zone, indoor cultivation and outdoor greenhouses are already being proposed.

Commissioner Woodall asked if the Brownfields site (Francis Summers property) on Eeloa Ave. would be required to be cleaned up before it could be used as a cultivation site.

Staff said he understands that parcel is almost clean and there is not as much contamination as originally thought. He said if they were to come in and apply for a permit, they would have to get a clean bill of health from probably the State Department of Health, Department of Toxic Substance Control, and Regional Water Quality Control Board as the responsible agencies to say they have no objections to it. He noted that the Summers property is actually zoned Urban Residential so based on the Commission's current recommendation it would not be allowed anyway.

Commissioner Angeloff commented that the Planning Commission had discussions regarding



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establishing a combined zone at the Eel River Industrial Park to focus on retail development at the northern portion of the Industrial Commercial area and on Industrial uses at the southern end. He questioned how that could change with what the Commission is recommending now.

Community Development Director Caldwell commented that it could but when the discussion gets to that point and the Commission decides they don't want to allow cultivation in the Industrial zone, they can make that recommendation. He clarified that his recommendation is that cultivation be allowed in the Industrial zone.

**Melissa Marks** asked if this is a living document that can be amended after the City sees how things are going.

Community Development Director Caldwell said it is a living document and is subject to change. He noted that one thing staff is recommending as opposed to the County is that they are basically allowing a number of uses as principally permitted with a zoning clearance certificate where the applicant simply signs an agreement to say they are going to adhere to the performance standards. He said the City took it to the public hearing process to allow the Commission the opportunity to look at the permits on an individual basis and also provide an opportunity for the neighborhood to voice their opposition or support. He said the permit can always be modified based on what's happening on the ground.

Staff said it should be noted that most of the Industrial Commercial land at the Eel River Industrial Park is asphalt so most greenhouses would probably be utilizing containers as opposed to in the dirt. As such, he doesn't think there will be as much demand for greenhouses there but if it were proposed, nothing would permit the Planning Commission from having the applicant make application to modify the cultivation regulations to allow for greenhouses in the IC area.

He said that being said, would recommend regulations for Industrial Commercial (IC) be left unchanged.

Commissioners concurred.

**Shaniah Williams** asked about testing laboratories.

Community Development Director Caldwell stated that Manufacturing will be discussed at the next meeting on March 22, 2016, followed by Testing Laboratories and Dispensaries at the meeting of April 12, 2016. He pointed out that processing distribution facilities, labs and testing facilities are all being recommended as allowable uses in the Industrial Commercial designation.

Next was discussion of the Rural and Natural Resources designations and the recommended canopy for those areas.

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Staff reported that the recommended canopy for outdoor greenhouses in those two designations ranges from 5,000 sq. ft. for less than 5 acres up to 22,000 sq. ft. for parcels greater than 20 acres.

**Matthew Fortozzo** commented that 22,000 sq. ft. of canopy is huge and expressed concern about how the City is going to make sure the grower is consistently producing good quality product. He also asked if the City will be looking at the grower's previous track record regarding test results.

Community Development Director Caldwell stated that there are a number of testing requirements set by the State related to pesticides, insecticides and other chemicals which is what staff is proposing as well, and that no background information or previous testing will be required.

He pointed out that a typical 30' x 60' greenhouse cost approximately \$50,000 so it would take a significant amount of financial backing for an operation of that size. He said that these cultivators are going to want the highest quality product possible because they want to not only get top dollar for their product but they will want to establish a good reputation for supplying the best product.

**Matthew Fortozzo** commented that as a patient, his biggest concern is the nutrients and sprays that are going to be allowed.

It was suggested by one of the scientist present that there be an educational session held to help educate growers on proper pesticide use, application, creating a pest management document, a document on ways to mitigate odor etc. and have that information on file.

Community Development Director Caldwell commented that many growers are going to Perma-Culture which is a sustainable basis where they minimize the impacts, minimize the use of fertilizers, and water consumption. He said it is more of an organic process as opposed to a synthetic process.

Commissioner Angeloff asked for a consensus of the Commission as to whether they want to consider extending testing requirements beyond what the State requires at this point in time.

Community Development Director Caldwell said discussions related to testing requirements should be held off until the scheduled meeting as there are people from other labs that want to be present for discussions on testing protocol.

**Glen White** commented that everything the City has proposed is structured off of AB-266 and the State guidelines. He said to address the issue of providing quality medicine to patients, if these guidelines are followed the cannabis will be shipped to a distribution center and tested and

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processed independently and would not be under the control of the cultivator. From there, it would be shipped to a licensed dispensary.

Community Development Director Caldwell pointed out that in addition to testing for pesticides and other chemicals, the labs will be testing THC and cannabinoid levels and the product will be labels with that information.

**Shaniah Williams** asked if there is a limit on the number of parcels in which a grower can do outdoor cultivation.

Community Development Director Caldwell said it is limited to four (4) sites and each grow much be on a separate parcel. He said under the State regulations, if someone had four (4) parcels, all greater than 20 acres, they would be allowed to have four (4) 22,000 sq. ft. greenhouses; one (1) on each parcel.

Commissioner Angeloff stated for clarification that the Neighborhood Center (NC), Community Commercial (CC), Public Facility (PF), or Residential Multi-Family (RM) are not being recommended for commercial cultivation. He said commercial cultivation is only recommended in two (2) zones; Rural (R) and Natural Resources (NR).

Community Development Director Caldwell explained that staff is recommending indoor cultivation be allowed in Industrial Commercial (IC), Rural (R), and Natural Resources (NR) designations. He reviewed the allowable canopy for the various parcel sizes.

Commissioner Angeloff asked if the City has any parcels less than one (1) acre in the Industrial Commercial (IC) designation.

Community Development Director Caldwell noted that there are a couple of parcels at the west end of Eeloa Ave. Under the proposed regulations, they would be allowed to have up to 5,000 sq. ft. of canopy however; they likely would not be able to meet the 50 foot setback requirement. He estimated the canopy sizes would probably range between 1,000 and 2,000 sq. ft. He said if the Commission felt that because of the neighborhood density that a larger setback was appropriate or a small canopy, it would be at their discretion.

**Gordon Johnson** commented that on a large parcel there could be 22,000 sq. ft. of canopy and in all likelihood it would be in large greenhouse. He asked if there is a setback between buildings.

Community Development Director Caldwell said the only setback requirement between buildings is five (5) feet pursuant to the California Building Code. He said the exception is if it is an extraction type use, they fall under a different occupancy group and actually have to have fire proof construction and be approved by the State Fire Marshall or local Fire Department.

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Commissioner Woodall asked if the Dinsmore Plateau were to have several large greenhouses if they would utilize the water from the Dinsmore tank. She referred to the regulation that there can be no trucked water except in the event of an emergency.

Community Development Director Caldwell noted that they have community water but it may actually be cheaper to drill a well than pay for City water. He said the intent behind no trucking of water is to make sure these grows have sufficient water supply and are not growing where there is no water.

**Jomra Kan** expressed concern about the 50 foot setback requirement for indoor grows. He said he has been talking with Dennis Wendt about subdividing some of his property north of the City at the Industrial Park and thinking of developing a mini business park and constructing a 10,000 sq. ft. building with five (5) units. He said one of those units could accommodate 2,000 sq. ft. of indoor but wondered if the 50 foot setback applies at all times no matter where it's located. He said they were thinking of splitting the area into several ½ acre parcels so they could be sold separately at a later time but it might be damaging with regard to setbacks.

Community Development Director Caldwell explained the 50 foot setback would apply to the property line; not the adjacent unit. He noted that when he recommended the 50 foot setback, it was primarily in response to the Rural (R) designation where there would be greenhouses. He said the Planning Commission could modify that based on location and type of grow, noting that indoor operations are much easier to contain odors. The reason for the setback requirement was primarily in response to odors.

**Jomra Kan** commented that if they want to be safe, they should probably go by the current regulations as written and split the parcels into 1-acre lots to allow more room for setbacks.

Community Development Director Caldwell explained that the Planning Commission has discretion to modify performance standards during the Conditional Use Permit process and based on the IC zone and indoor operations he would think it would be reasonable to reduce the setback to something less than 50 feet.

**Melissa Marks** asked when talking about a 1,000 sq. ft. structure if it refers to the actual footprint or if that structure can have a second story of an additional 1,000 sq. ft.

Community Development Director Caldwell explained the 1,000 sq. ft. allowance refers to total canopy area of the grow.

Consensus of the Commission was to accept staff's recommendations for indoor cultivation as presented.

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The next discussion was related to Nurseries. Staff explained that nurseries are where clones (baby plants) are produced and a process called “tissue cultures” is used which involves cutting pieces off from mother plants and to make the plants.

He noted that there is no size limitation on nurseries at the State level and staff is recommending they be allowed in the Industrial Commercial (IC), Rural (R), and Natural Resources (NR) designations in which they will also be subject to setbacks and other performance standards.

Commissioner Angeloff expressed concern regarding no restrictions on the size of nurseries and said he doesn't know why the State didn't limit the size of nurseries relative to indoor grows.

Community Development Director Caldwell said he thinks the reason the State didn't is because clones are non-flowering plants so there is no odor associated with this type of operation and no real impact on neighborhoods. He pointed out that the whole premise behind this is that cannabis be treated the same as any other agricultural product, except when it impacts neighborhoods; the flowering plant is what creates odors thus impacting neighborhoods.

Commissioner Angeloff noted that with no size restriction, potentially someone could put up a huge warehouse in the Natural Resources zone and questioned why the City would want that.

Community Development Director Caldwell reiterated that the operation would be subject to a Conditional Use Permit and performance standards in which the Commission would have discretion to modify based on the type of business and its location.

Commissioner Woodall asked Commissioner Angeloff if he would have the same reservations if it were for example, Sun Valley Farms proposing to come in and grow tulips.

Commissioner Angeloff commented that he may if it involved growing them in an indoor warehouse and may not if they were grown in an outdoor greenhouse.

**Jomra Kan** commented that the reason the State didn't establish a size restriction on nurseries is because no one is going to have a nursery that big since a large amount of clones can be produced in a small space.

Commissioner Angeloff asked if there is any way the lack of having a size restriction could provide a loop hole to increase the size of grows.

Community Development Director Caldwell said that it could not because one of the performance standards is that the applicant consent to two (2) annual on-site compliance inspections.

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Staff continued with review of the application requirement and performance standards related to nurseries.

Community Development Director Caldwell stated that he is proposing to strike the sentence related to the applicant providing a description of previous cannabis activities conducted on the parcel as he feels it is not germane to the issue.

Next was review of the *Employee Performance Standards for Cultivation and Processing Activities*.

Staff indicated that cultivators basically must comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include federal and state wage and hour laws, CAL/OSHA, California Agricultural Labor Relations Act, the Health and Safety Code, as well as the California Building Code.

Commissioner Long referred to the performance standards for cultivators and processing operations where it stated to “refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide” and suggested it say “shall not” rather than “refrain from.”

Commissioner Angeloff agreed that “refrain from” seems light-handed.

Community Development Director Caldwell said the language was copied from the County’s but it can certainly be changed to read “shall not store or use pesticide.....”

Discussion continued with review of the *Performance Standards for Cultivation and Processing Operations*.

Community Development Director Caldwell commented that the hope is to have regional cannabis collaborative at the Eel River Industrial Park. He said with these new regulations, it will hopefully eliminate some of the “trimigrants” that come into communities to process cannabis.

Commissioner Woodall referred to standards for Tier 1 dischargers and asked if there is any direct discharge into the City’s sewer system from the processing operations.

Staff explained that they will be required to compost and turn the waste materials into recycled materials.

Commissioner Millington said she understands the idea of regional cannabis collaborative at the Industrial Park but asked about dispensaries.

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Community Development Director Caldwell stated that staff is recommending only one (1) dispensary be allowed to start.

Commissioner Millington questioned whether one (1) dispensary in the City would be enough to attract tourists and other travelers to stop.

Discussion continued regarding boutique cannabis shops; the weed map app; and the various strains of cannabis.

Community Development Director Caldwell said he would tighten up the language related to the storage and use of pesticides and come back to the Commission on March 22, 2016 with discussion on Manufacturing provisions including extraction processes and cannabis commercial kitchens that produce edibles. He said depending on how that meeting goes, there may be the need for another special meeting on March 29, 2016. He said at the meeting of April 12, 2016, the Planning Commission is scheduled to discuss Testing Laboratories and Dispensaries.

**ADJOURNMENT**

Motion was made by Woodall/Long to adjourn the meeting at 9:15 p.m. to the March 22, 2016 regular meeting. Motion carried 5-0.

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Nick Angeloff, Chair

Attest:

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Karen Dunham, City Clerk

**CITY OF RIO DELL  
PLANNING COMMISSION  
REGULAR MEETING  
MARCH 22, 2016**

The regular meeting of the Rio Dell Planning Commission was called to order at 6:30 p.m. by Commissioner Angeloff.

Present were Commissioners Angeloff, Long, Millington and Woodall.

Others present were Community Development Director Caldwell and City Clerk Dunham.

**CEREMONIAL**

Swearing in of Melissa Marks to the Rio Dell Planning Commission for the remainder of a three-year term ending December 31, 2018

City Clerk Dunham administered the Oath of Office to newly appointed Planning Commissioner Melissa Marks and she assumed her seat with the other commissioners.

**CONSENT CALENDAR**

Motion was made by Woodall/Long to approve the consent calendar including approval of minutes of the October 22, 2015 regular meeting; approval of minutes of the October 29, 2015 continued meeting; and approval of minutes of the February 23, 2016 regular meeting. Motion carried 5-0; Commissioner Woodall abstained from vote on the minutes of October 22, 2015 and October 29, 2015.

**PUBLIC PRESENTATIONS**

**Teisha Mechetti** addressed the Commission regarding the request for consideration of a cottage industry cultivation license of up to 5,000 sq. ft. for parcels above 5 acres that are located in the Urban Residential (UR) and Suburban (S) zones. She noted that this would only apply to approximately 20 parcels in the City which are located on the edge of town in prime growing locations. She said it would increase the values of these parcels and allow for an underlying use type for Agriculture. She added that it would also incentivize cultivators to invest in property in Rio Dell.

Community Development Director Caldwell stated for the benefit of the public that the next scheduled meeting is April 12, 2016 and although the purpose of that meeting will be to discuss dispensaries and testing laboratories, it will be open for discussion of all related cannabis activities. As such, the Commission could revisit the request at that time.

**SCHEDULED MATTERS/PUBLIC HEARINGS/STUDY SESSIONS**

Manufacturing Recommendations – Medical Marijuana Commercial Land Use Regulations: Section 17.30.195 of the Rio Dell Municipal Code (RDMC)



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Community Development Director Caldwell provided a power point presentation and said this meeting is the fourth in a series of meetings related to the Medical Marijuana Land Use Ordinance. He said tonight the Planning Commission will be discussing Manufacturing provisions including:

- Level 1 Manufacturing: Manufacturing sites that produce medical cannabis products using nonvolatile solvents;
- Level 2 Manufacturing: Manufacturing sites that produce medical cannabis products using volatile solutions (i.e. butane, hexane, ethanol, etc.); and
- Cannabis Commercial Kitchens that produce edibles.

Steve Dizaiy from Diza Biotech, LLC in San Diego was present to provide a presentation on the scientific research and development services they offer.

Commissioner Angeloff commented that he and Community Development Director Caldwell met with Mr. Dizaiy today regarding manufacturing and he found the meeting to be very enlightening.

Mr. Dizaiy began by providing background information about him and said his background is in bio-chemistry.

He stated that he and the team at Diza Biotech treat cannabis as a plant with unique pharmaceutical products. He said they design and manufacture machinery for the pharmaceutical industry and identify technology, training and processes related to plant extraction.

He said if Rio Dell allows a manufacturing facility to come in, it is important that the facility adhere to protocols and guidelines. He said he has visited a lot of facilities and helped design systems where they had solvent based systems and what he found was that they typically had no set protocol because the State doesn't currently have specific regulations. He said that implementing manufacturing practices in this industry, especially for Level 2 manufacturing where volatile solutions are used is an absolute must.

He noted that in looking at active pharmaceutical products (APP) from process development to production, they make sure to adhere to FDA guidelines but there are a lot of more stringent guidelines that really need to be followed such as different aspects of processed development all the way to establishing a chain of custody command.

He explained the machine they built for the extraction process recaptures discharge of solvents. He explained the extraction process and how they determine active constituents such as cannabinoids and terpenes. He explained that terpenes are secondary messengers in plants and

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are like hormones and noted that there is a whole plufthera of food and flavor that utilize terpenes.

He further explained that hash oil is extracted then the cannabinoids are isolated by using solvent based separation technology. He noted that CO2 based systems are also used to do this specific purification process and said what they've learned is that different types of profiles and levels of THC are effective for different types of medical needs.

He pointed out that the key thing is to develop guidelines and standards that adhere to FDA guidelines and to make sure the manufacturing process is strongly regulated.

Commissioner Angeloff asked for clarification of Tier 2 supercritical fluid extraction (SFE) and the necessity for solvents in the technological stage.

Community Development Director Caldwell also asked him to talk about those elements used in other industries such as the creamery.

Mr. Dizaiy explained that industries such as creameries have solvent based systems for certain protocols because they essentially have to. He noted that 90% of chocolates produced in the United States are extracted using a solvent-based system; 70% of soy products are extracted by hexane.

He stated that industries are switching to supercritical systems only when it is economically feasible. He said not having the solvents would make any form of development really difficult. He said CO2 is a solvent and becomes as effective as a hydro-based solvent when exposed to high pressure temperatures. He reiterated that solvents are very critical to any cannabis extraction process and having Level 2 manufacturing is definitely a must to produce safe products.

Commissioner Angeloff made reference to the Food and Drug Administration's (FDA) protocol on CGMP's (Current Good Manufacturing Practices).

Mr. Dizaiy said he would recommend initiating a CGMP officer that would be on staff to adhere to protocols and make sure there's no contamination when the bio-mass comes in. He said the process would be to tag it properly and keep it in containment until it is cleared which helps the manufacturer maintain the proper level of validation.

He pointed out that this is a pharmaceutical product and should be treated as such.

Community Development Director Caldwell asked him to address the safety aspect and the type of safety measures they recommend for a manufacturing facility.

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Mr. Dizaiy said containment of the bio-mass in a clean room environment is critical and whether using a supercritical system or solvent based system a line could break so in the event a spill occurs, it is contained. He said a clean room within the facility insures no contamination going to the river. He recognized that there is a certain amount of danger which is why stringent regulations are necessary.

Next was discussion of the purification process. He commented that they are now able to produce capsules that are very effective for pain. He said Oral Thin Film (OTF) is a unique time-released drug and is great for people who have difficulty swallowing pills. He noted that sublingual metered sprays are another way to deliver the medicine as well as vapors, strips, sprays or shots.

He indicated that they currently treat 376 patients; most of which are pro-bono.

He said the City has the unique opportunity to start deploying this pharmaceutical aspect of cannabis but needs effective regulation. Also, if the facility is built out, it will be a show piece and attract college graduates for employment opportunities.

Commissioner Long asked for a definition of “supercritical.”

It was explained that it is basically a phase and that a lot of products have a super critical point when it goes from the gas state to almost pure state. He said subcritical is just below supercritical. He added that water is the master of all solvents and butane is extremely volatile.

Commissioner Marks said everyone keeps talking about the importance of having guidelines but they haven’t been developed so where does the City go from here.

Community Development Director Caldwell stated that the State is in the process of developing guidelines but doesn’t anticipate having them completed until 2018 which is why the FDA’s protocols need to be followed.

Commissioner Angeloff commented that manufacturers could follow FDA protocol to a certain degree however; if they were told they had to adhere to all FDA rules and regulations, it would probably put them out of business. Mr. Dizaiy agreed and said it’s not the guidelines per say but the validation process that is cumbersome.

Discussion continued regarding Bio-Tec clusters where there is a cluster of various companies; some private and those affiliated with local universities for the development of bio-technology. Mr. Dizaiy said he could definitely see this area as a Bio-Tech cluster.

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Commissioner Angeloff commented that it could also attract other botanical sources of interest, other than cannabis because of all the flora in this area.

**Glenn White** addressed the Commission and presented conceptual drawings of a proposed 2-level structure that could be constructed at the Eel River Industrial Park in the IC designation. The plan would be completely safeguarded throughout and be a distribution plant and include lab testing, processing and an isolation area.

**Dean Smither** stated that Mr. Diziay seemed to be presenting a concept that is way ahead of our times and said he is not sure if he is trying to sell manufacturing equipment or standards of manufacturing. He said he understood the purpose of the meeting tonight was to discuss land use regulations.

Commissioner Angeloff clarified that Mr. Diziay is not proposing a particular project to the Planning Commission but here for educational purposes only at this time.

There was a question from a member of the audience who asked how safe the use of petroleum products is.

Mr. Diziay said they are very safe and that they have used them for 10-12 years with only minor problems. He said they follow OSHA regulations and certify their technicians so they are prepared to deal with any problems should they arise.

Commissioner Long presented the worse-case scenario of an explosion occurring and asked how it would be handled.

Mr. Diziay stated that everything is contained in a cube so it is basically explosion proof, even with the CO2 process. He noted that they use 12,000 psi and high temperatures throughout the process so the vessel has to be able to contain it.

Community Development Director Caldwell pointed out that the use is Class H occupancy under the California Building Code which is hazard occupancy and subject to more stringent rules. He said it is also subject to the California Fire Code.

**Shane Wilson**, Rio Dell Fire Chief stated that he came to the meeting with an open mind and appreciated the presentation because it did open up the thought process. He said that there are these kinds of extraction processes all around us with the wastewater treatment plant, the pulp mill and the creamery and no one pays any attention. He said the other point he wanted to make was with regard to FDA regulations and said those are more products specific whereas; the Fire Code is very specific on the type of use as well as the California Building Code. He noted that there's also the California Health & Safety Code they must comply with. He commented that

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this area is actually located within Fortuna's fire district but he is sure that he and Chief Winburn can discuss a plan for addressing any potential problems.

He commented that Rio Dell Fire would probably be the first to respond to a call at the Eel River Industrial Park because of its close proximity to the Fire Station, at least until Fortuna Fire arrived and expressed concern that they are not equipped to handle these situations. The general response is to isolate and evacuate. He pointed out that there would not however; be more volatility with this type of business than a propane filling station.

**Lon Winburn**, Fortuna Chief asked the amount of product expected to be on site and if ethanol would be under pressure.

Mr. Diziay stated that they normally have 3-4 drums at their site but for a large commercial facility it could be maybe 10 times more; it really depends on demand. He said a small amount of ethanol is used with CO2 and the CO2 comes like air gas and that, along with nitrogen, argon and other gases are typically stored outside pursuant to special storage guidelines and piped into the facility.

**Teisha Mechetti** questioned the volatility of ethanol.

He explained that ethanol is volatile and obviously shouldn't keep it near an open flame but in an environment that minimizes the danger.

Community Development Director Caldwell asked Mr. Diziay if he would recommend the adoption of San Diego's guidelines.

He noted that their guidelines are extremely strict because of the close distance to the ocean.

**Dean Smither** referred to the proposed 10,000 sq. ft. facility at the Eel River Industrial Park and asked if there will be a limit on the size of facilities located within the Industrial Commercial (IC) zone on Eeloa Ave.

Community Development Director Caldwell explained there is a limit imposed by Cal-Trans that requires a traffic study on developments over 10,000 sq. ft. at the Eel River Industrial Park. He noted that there are also a limited number of licenses the State will issue and has indicated that those who have obtained a local license will be given special preference. He said any proposed development on Eeloa would have to comply with current zoning requirements regarding lot coverage and setbacks.

Commissioner Angeloff pointed out that the Planning Commission can also recommend limits on the number of dispensaries in the City.

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**Dean Smither** commented that he was not interested in limiting the number of facilities allowed.

Staff then introduced Jomra Kan and his business partners Paul Daley, Ph.D., Research Chemist and Sheldon Norberg from Essential Medicinals who were present to provide a power point presentation on "Cannabis Oil Processing."

Paul Daley began by stating that Essential Medicinals was founded a little over a year ago to develop medicinal cannabis products and at this point they are only dedicated to that so they are a very small operation. He said his presentation dovetails with the last presentation and his primary focus will be more specifically on the mechanics of doing cannabis oil extractions and the purification process.

He explained that the development of cannabis based medicine is going to be vastly more complicated than other pharmaceuticals mainly because the real pharmaceutical effectiveness depends on mixtures between cannabinoids and terpenes and the interaction between these particular substances. He noted that terpenes which are what gives cannabis its smell are not directly psychoactive and may affect the viable effectiveness of the cannabinoids.

He stated that the leaves and flowers contain many compounds including at least 60 cannabinoids and in addition to cannabinoids and terpenes, there are many other compounds that may or may not be desirable for a particular product being produced.

He said through the extraction processes they isolate desirable components and reject heavy pigments such as waxes and tarry compounds. He said in order to control flavor, there needs to be a regulatory process and it is realistic to say that this is the beginning of legislation to legalize cannabis for recreational use as well as medical.

He explained the various plant extraction methods and said that pressurized gas extraction methods using butane and propane work well for extraction of cannabinoids and terpenes but the hazard of using those gases is admittedly very high and can cause explosions.

Supercritical Fluid Extraction (SFE) with pressurized CO<sub>2</sub> is non-flammable and although cryogenic and asphyxiating hazards exist, the hazards are manageable through training.

He showed a slide of an explosion in New Mexico at a dispensary where they were using open flame butane with butane. He said this is what is used in garages noting that butane and propane are the highest level of danger.

He noted that they purchased a CO<sub>2</sub> Supercritical Fluid Extraction (SFE) unit that has 2 vessels and the crude oil is loaded, then they take liquid CO<sub>2</sub> and pump it up to higher pressure and pressurize the vessels which allow them to achieve the supercritical state to pull out the

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components. The supercritical fluid then returns to a gaseous state and the substances are suspended in fluid. From that process, they collect a waxy fraction.

He explained the decarboxylation process and said raw cannabis mainly contains THCA which is not psychoactive and when it is smoked, the THCA molecule loses its carboxylic group (COOH) in the form of water vapor and carbon dioxide and becomes THC which is psychoactive. He said decarboxylation is the process of losing the carboxyl group, referred to as decarbing. He said THCA is one of a number of cannabinoid acids that undergoes this process when heat or drying is applied to cannabis. So when it is smoked or vaporized, the cannabis is decarbed by the heat. If cannabis is to be eaten or ingested with the full psychoactive effect, it first needs to be decarbed before cooking with it.

He commented that "winterization" is the process in which you remove the plant waxes and explained the process of separating the waxes from the alcohol solution followed by distillation which separates the terpenes from the cannabinoids and the dark tar material included in the plant.

He noted that pesticides are widely used in tobacco products and it is a negative factor to have any pesticides in cannabis.

Commissioner Angeloff asked how the FDA's regulations would impact his business if Rio Dell were to adopt those guidelines.

He said FDA's regulations for developing pharmaceuticals is extremely stringent, many of which he feels are inappropriate for this industry and suggested good manufacturing processes be adopted that are in the middle of the road.

Commissioner Angeloff stated that it seem using FDA regulations would be onerous to smaller businesses and good for larger businesses but his concern is primarily quality of the product being produced so it is safe.

**Teisha Mechetti** questioned waste discharge for a facility of this size.

Paul explained that they reclaim and re-purify the glass they use and that dark oil is the only waste product. He said they save the wax so there is no waste discharge and as far as washing the glassware, they clean it with acetone, which they recapture before it even hits the sink.

Commissioner Long asked how the black oil is disposed of.

Steve interjected that at their facility it is sent to a hazardous facility in San Jose.

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Community Development Director Caldwell continued with review of the proposed Performance Standards for Manufacturing. He said based on comments received tonight, they may need to be amended.

He added that he also would like to require special filters and a Plan of Operation for each facility. He noted that the locations for doing extractions are only recommended to be allowed in in Industrial Commercial (IC) designation subject to a Conditional Use Permit. If there is a demand to make changes later, the Commission can do so.

He noted that the extraction process occurs in a laboratory setting which is built in compliance with appropriate occupancy types of construction required by the California Building Code (CBC) and the California Fire Code (CFC). Also, commercial kitchens that produce edibles fall into that category but the use is really low impact as the products would be purchased from an extractor and injected into the edibles.

**Dean Smither** commented that he would like the opportunity to be able to cook edibles and said there is not much harm since there would no extraction occurring.

Community Development Director Caldwell noted that all edibles must be sold from a licensed dispensary; commercial kitchens would not be allowed to sell edibles to the public. Discussion continued regarding where commercial kitchens should be allowed.

Commissioner Marks commented that if all the vacant commercial buildings are used for commercial kitchens, it will drive out other potential businesses.

**Dean Smither** pointed out that there won't be commercial kitchens going into every vacant building and that his goal as a major property owner in the City is to be able to make a living.

A member of the audience said one the contrary, it will drive in tourists to see how cannabis is processed and manufactured.

Another comment was made that is not unreasonable to allow edibles businesses in the Town Center and that Humboldt County is the gateway of cannabis.

Community Development Director Caldwell said "branding" Humboldt County as the marijuana capital of the world so to speak is a positive thing for the community.

Commissioner Angeloff asked if a bakery can use the same equipment for donuts as well as "pot brownies" and other edibles.

It was explained there would be cross contamination wash down procedures required.



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Commissioner Woodall mentioned the Food Collaborative Study done by Planwest Partners and asked if this is something that could work with regard to the cannabis industry.

Community Development Director Caldwell said there is a plan that almost mirrors the former plan.

Commissioner Angeloff suggested incorporating perhaps corn, tomatoes, or other agricultural products into a regional collaborative.

The consensus of the Commission was to support allowing commercial kitchens in all commercial zones subject to performance standards.

Commissioner Angeloff expressed the need to impose performance standards that mitigate any potential odors.

Community Development Director Caldwell said staff will certainly employ that filters and scrubbers be installed which are very effective.

Commissioner Long said he would prefer to have a commercial kitchen in operation in the Industrial Commercial (IC) zone and make sure the required filters are effective before allowing them in the Town Center (TC) as some people find the odor highly offensive.

Commissioner Marks asked if existing buildings such as 108 Wildwood Ave. would be required to be brought up to current standards.

Community Development Director Caldwell said as far as design review, the Commission has the ability to impose certain aesthetic improvements.

**Dean Smither** commented that it's not fair to hold business owners in the Town Center hostage to see if the use works in another zone first.

Staff pointed out that the Planning Commission has the authority to revoke a permit if they are not in compliance with the performance standards.

Commissioner Marks commented that she can visualize having extraction type businesses located at the Eel River Industrial Park but has a problem with extraction processes occurring in residential neighborhoods including the Industrial Commercial (IC) area on Eeloa Ave. since it includes residential uses.

It was pointed out that there are various in-line scrubbers to diminish aromatic smells that are really inexpensive.

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The consensus of the majority of the Commission was that commercial kitchens be allowed in Industrial Commercial (IC), Neighborhood Center (NC) and Town Center (TC) subject to

performance standards associated with the Conditional Use Permit. Commissioner Marks abstained from vote.

The Commission were all in favor of allowing manufacturing in the only the Industrial Commercial (IC) zone.

Commissioner Long thanked the gentlemen for their presentations and said it brought a lot of clarity on the subject.

**ADJOURNMENT**

Motion was made by Long/Woodall to adjourn the meeting at 9:32 p.m. to the April 12, 2016 Special meeting. Motion carried 5-0.

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Nick Angeloff, Chair

Attest:


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Karen Dunham, City Clerk



For Meeting of: April 12, 2016

To: Planning Commission

From: Kevin Caldwell, Community Development Director 

Through: Kyle Knopp, City Manager

Date: April 7, 2016

Subject: Medical Marijuana Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code (RDMC).

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**Recommendation:**

That the Planning Commission:

1. Receive staff's report regarding medical marijuana testing laboratory and dispensary locations and performance standards and the final version of the Planning Commissions recommended Medical Marijuana Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code; and
2. Open the public hearing, receive public input and deliberate; and
3. Find that:
  - (a) The proposed regulations are consistent with the General Plan; and
  - (b) The proposed regulations have been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA);
4. Adopt Resolution No. PC 094-2016 recommending approval of the Medical Marijuana Commercial Land Use Regulations to the Rio Dell City Council.

## Background

This meeting is the fifth in a series of meetings regarding the discussion of the Medical Marijuana Land Use Ordinance (MMLUO). At this meeting the Planning Commission is scheduled to discuss Testing Laboratories and Dispensaries provisions, including:

- “Testing”, Testing licensees shall have their facilities licensed according to the regulations set forth in Section 19341 et. seq. of the Business and Professions Code. A testing licensee shall not hold a license in another license and shall not own or have ownership interest in any other license type; and
- “Dispensary; General”, Type 10 dispensaries are facilities where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale. Only one retail site is allowed and no other licenses are allowed under the Type 10 license; and
- “Dispensary; No More Than 3 Retail Sites”, A Type 10A dispensary licensee may apply for other licenses in an effort to be vertically integrated, which is required in some cities. And even though a dispensary may obtain a cultivator and/or manufacturing license, it must first transport all cannabis through a distributor and testing licensee before it re-enters the dispensary (if the grow is located in the same place) for sale.

## Discussion – Testing Laboratories

Staff is recommending that testing laboratories be conditionally permitted in the Industrial Commercial (IC), Town Center (TC), Neighborhood Center (NC) and Community Commercial (CC) designation subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by Planning Commission and/or the City Council.

Testing laboratories and other related medical and dental facilities are currently principally permitted uses in the City’s commercial zoning districts, including Industrial Commercial (IC), Town Center (TC), Neighborhood Center (NC) and Community Commercial (CC) designation. The County does not distinguish labs that analyze cannabis as being any different from any other testing lab facility.

In addition to the State requirements found in Sections 1934 through 19345 of the Business and Professions Code, staff is recommending that the following performance standards:

- The facility shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the City Manager or designee that is operated and monitored by a recognized security company, deemed acceptable by the City Manager or designee. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical marijuana facility's security company shall be provided to the city manager or designee.
- Entrance to the lab area and any cannabis storage areas shall be locked at all times, and under the control of facility staff.
- Medical marijuana shall be stored in a secured and locked room, vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.
- Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the California Building Code.
- All laboratory testing facilities shall comply with Sections 19341 through 19345 of the California Business and Professions Code.
- Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

Below is a copy of the State requirements regulating labs that analyze cannabis which are codified in Sections 19342 through 19345 of the Business and Professions Code:

19342. (a) For the purposes of testing medical cannabis or medical cannabis products, licensees shall use a licensed testing laboratory that has adopted a standard operating procedure using methods consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test medical cannabis and medical cannabis products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.

(b) An agent of a licensed testing laboratory shall obtain samples according to a statistically valid sampling method for each lot.

(c) A licensed testing laboratory shall analyze samples according to either of the following:

(1) The most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.

(2) Scientifically valid methodology that is demonstrably equal or superior to paragraph (1), in the opinion of the accrediting body.

(d) If a test result falls outside the specifications authorized by law or regulation, the licensed testing laboratory shall follow a standard operating procedure to confirm or refute the original result.

(e) A licensed testing laboratory ***shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis*** (emphasis added).

19343. A licensed testing laboratory shall not handle, test, or analyze medical cannabis or medical cannabis products unless the licensed testing laboratory meets all of the following:

(a) Is registered by the State Department of Public Health.

(b) Is independent from all other persons and entities involved in the medical cannabis industry.

(c) Follows the methodologies, ranges, and parameters that are contained in the scope of the accreditation for testing medical cannabis or medical cannabis products. The testing lab shall also comply with any other requirements specified by the State Department of Public Health.

(d) Notifies the State Department of Public Health within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

(e) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the licensed testing laboratory for testing.

19344. (a) A licensed testing laboratory shall issue a certificate of analysis for each lot, with supporting data, to report both of the following:

(1) Whether the chemical profile of the lot conforms to the specifications of the lot for compounds, including, but not limited to, all of the following:

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

(C) Cannabidiol (CBD).

(D) Cannabidiolic Acid (CBDA).

(E) The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.

(F) Cannabigerol (CBG).

(G) Cannabinol (CBN).

(H) Any other compounds required by the State Department of Public Health.

(2) That the presence of contaminants does not exceed the levels that are the lesser of either the most current version of the American Herbal Pharmacopoeia monograph or the State Department of Public Health. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:

(A) Residual solvent or processing chemicals.

(B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

(C) Microbiological impurity, including total aerobic microbial count, total yeast mold count, *P. aeruginosa*, *aspergillus* spp., *s. aureus*, aflatoxin B1, B2, G1, or G2, or ochratoxin A.

(D) Whether the batch is within specification for odor and appearance.

(b) Residual levels of *volatile organic compounds shall be below the lesser of either the specifications set by the United States Pharmacopeia (U.S.P. Chapter 467) or those set by the State Department of Public Health* (emphasis added).

19345. (a) Except as provided in this chapter, a licensed testing laboratory shall not acquire or receive medical cannabis or medical cannabis products except from a licensed facility in accordance with this chapter, and shall not distribute, sell, deliver, transfer, transport, or dispense medical cannabis or medical cannabis products, from which the medical cannabis or medical cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

(b) A licensed testing laboratory may receive and test samples of medical cannabis or medical cannabis products from a qualified patient or primary caregiver only if he or she presents his or her valid recommendation for cannabis for medical purposes from a physician. A licensed testing laboratory shall not certify samples from a qualified patient or caregiver for resale or transfer to another party or licensee. All tests performed by a licensed testing laboratory for a qualified patient or caregiver shall be recorded with the name of the qualified patient or caregiver and the amount of medical cannabis or medical cannabis product received.

(c) The State Department of Public Health shall develop procedures to ensure that testing of cannabis occurs prior to delivery to dispensaries or any other business, specify how often licensees shall test cannabis and that the cost of testing shall be borne by the licensed cultivators, and require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards promulgated by the State Department of Public Health, unless remedial measures can bring the cannabis into compliance with quality assurance standards as promulgated by the State Department of Public Health.

(d) The State Department of Public Health shall establish a licensing fee, and laboratories shall pay a fee to be licensed. Licensing fees shall not exceed the reasonable regulatory cost of the licensing activities.

### **Discussion – Dispensaries**

Staff is recommending that dispensaries be conditionally permitted in the Town Center (TC) designation subject to a Conditional Use Permit, State regulations, recommended performance standards and the conditions and limitations set forth in this Section and as deemed appropriate by Planning Commission and/or the City Council.

In addition to the State requirements found in Sections 1934 through 19345 of the Business and Professions Code, staff is recommending that the following dispensary performance standards:

- The facility shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the City Manager or designee that is operated and monitored by a recognized security company, deemed acceptable by the City Manager or designee. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical marijuana facility's security company shall be provided to the City Manager or designee.
- Entrance to the any cannabis storage areas shall be locked at all times, and under the control of facility staff.
- Medical marijuana shall be stored in a secured and locked room, vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.
- Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the Code.
- No dispensing location for the collective shall be open between the hours of 8:00 p.m. and 9:00 a.m. on any given day.



- Only qualified patients, as defined in Section 11362.7 of the Health and Safety Code are allowed in dispensaries.
- Medical marijuana may not be inhaled, smoked, eaten, ingested, vaped, or otherwise used or consumed at the premises and/or location.
- The sales of pipes, including water pipes and other paraphernalia are prohibited.
- All edible medical marijuana products sold within the City of Rio Dell shall be placed in opaque packaging, without photos or images of food on the label. Packaging that makes the edible product attractive to children or imitates candy is not allowed. Edible medical marijuana products shall not imitate commercially produced goods marketed to children. The edible product must be accompanied by a leaflet or insert that clearly states the source/provider of the food production in addition to all of the information required by Subsection 17.30.095(14)(i).
- A sign shall be posted in a conspicuous location inside the premises advising the following: "Both the sale of marijuana and the diversion of marijuana for nonmedical purposes are violations of state law. The use of marijuana may impair a person's ability to operate a motor vehicle or heavy machinery. Loitering at the location of a medical marijuana collective for an illegal purpose is prohibited by California Penal Code Section 647(h). This collective is registered in accordance with the laws of the State of California and the City of Rio Dell."
- In addition to the labeling requirements of Section 19347 of the Business and Professions Code, all medical marijuana shall be packaged in an opaque childproof container which shall be accompanied by a leaflet or insert that clearly states the following:
  - The complete legal name of the qualified patient who will be using the medical marijuana;
  - The name, address and on-site landline telephone number of the dispensary;
  - The amount of medical marijuana in the container;
  - The name of the attending physician recommending the use of medical marijuana for the qualified patient;
  - The date the medical marijuana was provided;
  - A list of the chemicals and or substances that were used during the processing of the medical marijuana;

- All necessary health and safety warnings, including, but not limited to direction that the medical marijuana be stored in a clean and dry place and out of the reach of children; and
- A statement that the City of Rio Dell neither warrants nor guarantees the quality or safety of the medical marijuana contained therein.

Below are the labeling requirements found in Section 19347 of the Business and Professions Code:

19347. (a) Prior to delivery or sale at a dispensary, medical cannabis products shall be labeled and in a tamper-evident package. Labels and packages of medical cannabis products shall meet the following requirements:

- (1) Medical cannabis packages and labels shall not be made to be attractive to children.
- (2) All medical cannabis product labels shall include the following information, prominently displayed and in a clear and legible font.
  - (A) Manufacture date and source.
  - (B) The statement "SCHEDULE I CONTROLLED SUBSTANCE."
  - (C) The statement "KEEP OUT OF REACH OF CHILDREN AND ANIMALS" in bold print.
  - (D) The statement "FOR MEDICAL USE ONLY."
  - (E) The statement "THE INTOXICATING EFFECTS OF THIS PRODUCT MAY BE DELAYED BY UP TO TWO HOURS."
  - (F) The statement "THIS PRODUCT MAY IMPAIR THE ABILITY TO DRIVE OR OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."
  - (G) For packages containing only dried flower, the net weight of medical cannabis in the package.
  - (H) A warning if nuts or other known allergens are used.
  - (I) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total.
  - (J) Clear indication, in bold type, that the product contains medical cannabis.

(K) Identification of the source and date of cultivation and manufacture.

(L) Any other requirement set by the bureau.

(M) Information associated with the unique identifier issued by the Department of Food and Agriculture pursuant to Section 11362.777 of the Health and Safety Code.

(b) Only generic food names may be used to describe edible medical cannabis products.

Dispensaries are regulated by the Department of Consumer Affairs. Section 19334(c) et. seq. of the Business and Professions contains the following required regulations associated with dispensaries:

(c) A licensed dispensary shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary. These security measures shall include, but not be limited to, all of the following:

(1) Preventing individuals from remaining on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary.

(2) Establishing limited access areas accessible only to authorized dispensary personnel.

(3) Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.

(d) A dispensary shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:

(1) Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.

(2) Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary.

(3) The loss or unauthorized alteration of records related to cannabis, registered qualifying patients, primary caregivers, or dispensary employees or agents.

(4) Any other breach of security.

## **Procedures for Zoning Ordinance Amendments**

Pursuant to Section 17.35.010 of the City of Rio Dell Municipal Code, the following City procedures are required to amend the Ordinance:

- An amendment may be initiated by one or more owners of property affected by the proposed amendment, as set out in Section 17.35.010(3), or by action of the Planning Commission, or the City Council.
- The application of one or more property owners for the initiation of an amendment shall be filed in the office of the City Clerk on a form provided, accompanied by a filing fee.
- Subject only to the rules regarding the placing of matters on the Planning Commission agenda, the matter shall be set for a public hearing.
- Notice of hearing time and place shall be published once in a newspaper of general circulation at least ten calendar days before the hearing or by posting in at least three public places.
- At the public hearing, the Planning Commission shall hear any person affected by the proposed amendment. The hearing may be continued from time to time.
- Within 40 days of the conclusion of the hearing, the Planning Commission shall submit to the City Council a written report of recommendations and reasons therefore.
- Subject only to the rules regarding the placing of matters on its agenda, the City Council, at its next regular meeting following the receipt of such report, shall cause the matter to be set for a public hearing. Notice of the time and place of the hearing shall be given as provided in Section 17.35.010(5), hereof.
- At the public hearing, the City Council shall hear any person affected by the proposed amendment. The hearing may be continued to a specified future date, but shall be concluded within 60 days of the commencement thereof.
- The City Council shall not make any change in the proposed amendment until the proposed change has been referred to the Planning Commission for a report, and the Planning Commission report has been filed with the City Council.

### **Zone Reclassification Required Finding:**

1. The proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected.

The General Plan contains a number of economic development policies, including promoting a variety of commercial uses and allowing light manufacturing in appropriate commercial areas. There are no policies in the General Plan which would preclude or prohibit the Medical Marijuana Commercial Land Use Regulations. Therefore, the recommended regulations are consistent and compatible with the General Plan.

**2. The proposed amendments have been processed in accordance with the California Environmental Quality Act (CEQA).**

The primary purpose of the California Environmental Quality Act (CEQA) is to inform the decision makers and the public of potential environmental effects of a proposed project.

Because any development, including cultivation, processing, manufacturing and distribution of cannabis for medical use within the City of Rio Dell requires a Conditional Use Permit, each individual application will be reviewed pursuant to the California Environmental Quality Act.

In addition, agricultural activities are already principally in the Rural (R) and Natural Resources (NR) zoning designations. Indoor cultivation is recommended to be a conditionally permitted use in the Industrial Commercial (IC) zone. Based on currently allowed uses and the recommended Performance Standards, staff believes there is no evidence to suggest that indoor cultivation in the Industrial Commercial (IC) zone will have a significant effect on the environment.

Agricultural Processing and distribution facilities are already existing permitted uses in the Industrial Commercial (IC) zone. There is no evidence to suggest processing and distributing medical cannabis in the Industrial Commercial (IC) zone will have a significant effect on the environment.

Manufacturing is also currently principally permitted in the Industrial Commercial (IC) zone. The production of medical cannabis concentrates is very similar to the processes utilized in other industries including dairy products, distillation and medical laboratories. Manufacturing edibles is no different than the manufacturing of other food items. Retail and wholesale food manufacturing and restaurants (commercial kitchens) are already allowed in the recommended commercial zones. Based on currently allowed uses and the recommended Performance Standards, staff believes there is no evidence to suggest extraction manufacturing in the Industrial Commercial (IC) zone or edible manufacturing will have a significant effect on the environment.

Testing laboratories are currently principally permitted uses in the Industrial Commercial (IC), Town Center (TC), Neighborhood Center (NC) and Community Commercial (CC) zoning designations. There is no evidence to suggest that labs analyzing marijuana will have a significant effect on the environment.

Dispensaries are considered retail uses which are currently principally permitted uses in the City's commercial zoning districts. The difference is that only qualified patients, as defined in Section 11362.7 of the Health and Safety Code are allowed in dispensaries.

Based on currently allowed uses and recommended performance standards, staff believes that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. Pursuant to Section 15061(b) (3) of the CEQA Guidelines this exemption is covered by the general rule that CEQA applies only to projects which have the potential for causing a *significant* effect on the environment. Because any development, including cultivation, processing, manufacturing and distribution of cannabis for medical use within the City of Rio Dell requires a Conditional Use Permit, each individual application will be reviewed pursuant to the California Environmental Quality Act at the time of application.

#### **Attachments**

Attachment 1: Resolution No. PC 094-2016 recommending approval of the Medical Marijuana Commercial Land Use Regulations to the Rio Dell City Council.

Attachment 2: Draft Ordinance No. 342-2016, Medical Marijuana Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code (RDMC)

**RESOLUTION NO. PC 094-2016**



**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIO DELL  
RECOMMENDING APPROVAL OF MEDICAL MARIJUANA COMMERCIAL LAND USE  
REGULATIONS, SECTION 17.30.195 OF THE RIO DELL MUNICIPAL CODE (RDMC):**

**WHEREAS**, California Government Code Section 65850, et seq. authorizes counties and cities to regulate land use, including agriculture, and to adopt and amend zoning ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

**WHEREAS**, on October 9, 2015 Governor Brown approved a package of three bills enacted by the legislature on September 11, 2015, SB 643, AB 243, and AB 266, providing for comprehensive, concurrent regulation and licensing by state and local governments of medical marijuana as an agricultural product, including its cultivation, processing, testing, manufacture, distribution, transportation, dispensing, and delivery; and

**WHEREAS**, pursuant to Section 11362.777, subsection (c)(3), "A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the Department of Food and Agriculture's state licensing requirements"; and

**WHEREAS**, the state statutes establishing a regulated, legitimate basis for commercial medical cannabis economic activities under the authorization of state law provide an opportunity to bring unregulated activities into compliance with existing law and ameliorate adverse environmental impacts, while bringing it out of the shadows of an underground, black-market economy into a legitimate agricultural and commercial contributor to the local and state economy; and

**WHEREAS**, the City of Rio Dell has previously adopted a land use ordinance governing indoor and outdoor cultivation of medical marijuana for personal use; and

**WHEREAS**, the Planning Commission held five public hearings on the proposed Ordinance governing the Commercial Cultivation, Processing, Testing, Manufacturing and Distribution of Cannabis for Medical Use to receive a reports on the draft ordinance, as well as evidence and public testimony; and



**WHEREAS**, the Planning Commission reviewed and considered the report, evidence, and other testimony presented to the Commission, and recommended revisions to the draft land use Ordinance Governing the Commercial Cultivation of Commercial Cultivation, Processing, Manufacturing and Distribution for Medical Use; and

**WHEREAS** the City has reviewed and processed the proposed amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

**WHEREAS** the City has reviewed and processed the proposed amendment in conformance with Section 17.35.010 of the City of Rio Dell Municipal Code; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected; and

**WHEREAS** the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Rio Dell finds that:

1. The proposed amendments are consistent with the General Plan and any applicable specific plan; and
2. The proposed regulations have been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA);

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Planning Commission of the City of Rio Dell recommends that the City Council approve the proposed Medical Marijuana Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code (RDMC).

**I HEREBY CERTIFY** that the forgoing Resolution was PASSED and ADOPTED at a regular meeting of the Planning Commission of the City of Rio Dell on April 12, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Billy Joe Long, Chairperson Pro tem



ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Resolution No. PC 094-2016 adopted by the Planning Commission of the City of Rio Dell on April 12, 2016.

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Karen Dunham, City Clerk, City of Rio Dell

## **ORDINANCE NO. 342-2016**



### **An ordinance establishing Section 17.30.195 of Title 17 of the Rio Dell Municipal Code relating to the Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use.**

#### **The City Council of the City of Rio Dell ordains as follows:**

**WHEREAS**, California Government Code Section 65850, et seq. authorizes counties and cities to regulate land use, including agriculture, and to adopt and amend zoning ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

**WHEREAS**, on October 9, 2015 Governor Brown approved a package of three bills enacted by the legislature on September 11, 2015, SB 643, AB 243, and AB 266, providing for comprehensive, concurrent regulation and licensing by state and local governments of medical marijuana as an agricultural product, including its cultivation, processing, testing, manufacture, distribution, transportation, dispensing, and delivery; and

**WHEREAS**, pursuant to Section 11362.777, subsection (c)(3), "A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the Department of Food and Agriculture's state licensing requirements"; and

**WHEREAS**, the state statutes establishing a regulated, legitimate basis for commercial medical cannabis economic activities under the authorization of state law provide an opportunity to bring unregulated activities into compliance with existing law and ameliorate adverse environmental impacts, while bringing it out of the shadows of an underground, black-market economy into a legitimate agricultural and commercial contributor to the local and state economy; and

**WHEREAS**, the City of Rio Dell has previously adopted a land use ordinance governing indoor and outdoor cultivation of medical marijuana for personal use; and

**WHEREAS**, the Planning Commission held five public hearings on the proposed Ordinance governing the Commercial Cultivation, Processing, Testing, Manufacturing and Distribution of Cannabis for Medical Use to receive a reports on the draft ordinance, as well as evidence and public testimony; and

**WHEREAS**, the Planning Commission reviewed and considered the report, evidence, and other testimony presented to the Commission, and recommended revisions to the draft land use Ordinance Governing the Commercial Cultivation of Commercial Cultivation, Processing, Manufacturing and Distribution for Medical Use; and

**WHEREAS** the City has reviewed and processed the proposed amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

**WHEREAS** the City has reviewed and processed the proposed amendment in conformance with Section 17.35.010 of the City of Rio Dell Municipal Code; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected; and

**WHEREAS** the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Rio Dell does hereby ordain as follows:

**SECTION 1. Section 17.30.195 of Title 17 of the Rio Dell Municipal Code is hereby added as follows:**

**(1) Authority and Title**

This Section shall be known as the Medical Marijuana Commercial Land Use Ordinance (“MMCLUO”), which provides for the regulation of Commercial Cultivation, Processing, Manufacturing and Distribution of cannabis for medical use, as defined in this Code, located within the City of Rio Dell

**(2) Purpose and Intent**

The purpose of this Section is to establish land use regulations concerning the commercial cultivation, processing, manufacturing and distribution of cannabis for medical use within the City of Rio Dell in order to limit and control such cultivation in coordination with the State of California in the implementation of the Medical Marijuana Regulation and Safety Act (MMRSA)(SB 643, AB 266, and AB 243 as adopted September 11, 2015, and approved by the Governor on October 9, 2015), so as to ensure the health and safety of employees, independent contractors, visitors to the area, neighboring property owners, and end users of medical marijuana; to protect the environment from harm to streams, fish, and wildlife; to

ensure the security of the medical marijuana; and to safeguard against the diversion of medical marijuana for non-medical purposes. It is intended to address the City of Rio Dell's prerogative to permit, and control commercial cultivation, processing, manufacturing and distribution of cannabis for medical marijuana as set forth in the MMRSA, including, but not limited to the provisions of Business and Professions Code Sections 19315, 19316, 19320, 19322, 19332, and 19360 and Health and Safety Code Section 11362.777, in conjunction with state licensing requirements, in order to protect the public health, safety, and welfare of the residents of the City of Rio Dell, and to reduce or eliminate any adverse environmental effects of existing commercial cannabis cultivation operations in the City of Rio Dell, and to prevent adverse environmental effects of any new commercial cannabis activities which may be permitted in the future in accordance with this Section and state law. This Section is not intended to supersede the provisions of Section 17.30.190 of the Rio Dell Municipal Code concerning cultivation of medical marijuana for personal use.

### **(3) Applicability and Interpretation**

- (a) These regulations shall apply to the location and permitting of commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use in zoning districts within which such use is authorized, as specified in this Section.
- (b) The commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use within the jurisdiction of the City of Rio Dell shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section.
- (c) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use, from compliance with all other applicable zoning, and land use regulations, as well as compliance with any applicable state laws.
- (d) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use, as defined herein, from any and all applicable local and state construction, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.
- (e) Nothing in this Section is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation, processing, manufacturing, or distribution of cannabis for medical use on private property.
- (f) The definitions in this Section are intended to apply solely to the regulations in this section.

- (g) Notwithstanding the fact that Health and Safety Code Section 11362.777 declares that medical cannabis is an agricultural product for purposes of that Section and the MMRSA, Business and Professions Code Section 19300, et. seq., the commercial cultivation of cannabis for medical use is a highly regulated specialty crop and cultivation and processing of that specialty crop shall not be allowed as a principal permitted use unless a Conditional Use Permit is first obtained from the City of Rio Dell, and the person engaged in such activity has obtained all state licenses and permits which may be required by the applicable state licensing authorities whenever such licenses become available.

#### **(4) Release of Liability and Hold Harmless**

As a condition of approval for any Conditional Use Permit approved for the commercial cultivation, processing, manufacturing, testing, or distribution of cannabis for medical use, as defined herein, the owner or permittee shall indemnify and hold harmless the City of Rio Dell and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use.

#### **(5) Penalties and Enforcement**

All of the remedies provided for in this Section shall be cumulative and not exclusive of remedies available for violations under any other Section of the Rio Dell Municipal Code and the MMRSA.

Any violation of this Section, including, but not limited to failure to obtain and maintain in good standing the required Conditional Use Permit specified in this Section, shall be, and the same hereby is declared to be, a public nuisance and unlawful and shall be subject to injunction, abatement or any other administrative, civil, or criminal remedy available to the City under the applicable state and City laws, including those set forth in the Rio Dell Municipal Code.

#### **(6) Definitions**

“Area of Traditional Tribal Cultural Affiliation” means geographic areas of historic occupancy and traditional cultural use by local indigenous peoples (California Native American Tribes), as shown on the latest mapping prepared by the County of Humboldt Planning & Building Department, created from geographic information supplied by the Tribes of Humboldt County.

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or

not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agriculture Code or Section 11018.5 of the Health and Safety Code.

"Commercial Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for medical use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medical Marijuana Regulation and Safety Act (MMRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

"Cultivation Area" the area encompassed by the perimeter surrounding the area within which cannabis plants are cultivated. Where plants are cultivated in separated pots, beds or plots, the cumulative total surface area of all such pots, beds or plots, and the surface area underneath the maximum anticipated extent of vegetative growth of cannabis plants to be grown in separate pots, beds or plots, used in combination for a single permitted cultivation operation.

"Cultivation site" means the location or a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, except where drying, curing, grading or trimming is otherwise prohibited.

"Dispensary" means a facility where medical cannabis, medical cannabis products, or devices (excluding pipes and water pipes) for the use of medical cannabis products are offered, either individually or in any combination, for retail sale.

"Distribution Facility" means the location or a facility where a person licensed with a Type 11 license pursuant to the MMRSA conducts the business of procuring medical cannabis from licensed cultivators or manufacturers for sale to licensed dispensaries, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes prior to transport to licensed dispensaries.

"Indoor" means indoor cultivation using exclusively artificial lighting.

"Licensee" means a person issued a state license under the MMRSA to engage in commercial cannabis activity.

"Manufacturing Facility" means a process whereby the raw agricultural product is transformed into a concentrate, an edible product, or a topical product, and the production, preparation, propagation, or compounding of medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.



“Mixed-Light” means cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold as set forth in performance standards in Section 55.4.11 (t), et seq. of this ordinance, or as to be determined by the Department of Food and Agriculture, whichever is less.

“Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products for retail or wholesale sale, used specifically for the planting, propagation, and cultivation of medical cannabis.

“Outdoor” means outdoor cultivation using no artificial lighting.

“Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

“Premises” means a legal parcel compliant with the Subdivision Map Act, or a leasehold interest in agricultural land for agricultural purposes of outdoor or mixed-light cultivation or processing of medical cannabis, or space in an industrial or commercial building for purposes of indoor cultivation, processing, manufacture, or distribution of medical cannabis.

“Processing Facility” means the location or facility where medical cannabis is dried, cured, graded, trimmed, and/or packaged by or under the control of one or more licensed cultivators, at a location separate from the cultivation site where the medical cannabis is grown and harvested.

“State license,” means a state license issued pursuant to the MMRSA.

“Testing Laboratory” means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

- (1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry on the state; and
- (2) Registered with the Department of Public Health.

“Tribal Cultural Resources” means sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe, including unique archaeological resources and historical resources as described under sections 21074, 21083.2(g), and 21084.1 of the Public Resources Code, respectively. Tribal Cultural Resource shall also include sites or resources identified by the tribe through an action of the Tribal Council or equivalent body.

## **(7) General Provisions**

This section applies to all facilities and activities involved in the Commercial Cultivation, Processing, Manufacturing, Testing or Distribution of cannabis for medical use, as defined in this Section.

- (a) All commercial cultivation, processing, manufacturing, testing, or distribution of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws and conditions as deemed appropriate by Planning Commission and/or the City Council.
- (b) Outdoor and Mixed-Light commercial cultivation of cannabis for medical use shall be conducted entirely within a fully enclosed, secure and lockable greenhouse and shall be conditionally permitted in the Rural (R) and Natural Resources (NR) designations, pursuant to the "Outdoor" and "Mixed-Light" parcel size and cultivation area provisions described in the Table of Permit Types, and subject to the conditions and limitations set forth in this Section and as deemed appropriate by Planning Commission and/or the City Council.
- (c) Indoor commercial cultivation of cannabis for medical use shall be conditionally permitted in the Industrial Commercial (IC), Rural (R) and Natural Resources (NR) designations pursuant to the "Indoor" parcel size and cultivation area provisions described in the Table of Permit Types, and subject to the conditions and limitations set forth in this Section and as deemed appropriate by Planning Commission and/or the City Council.
- (d) Processing Facilities accessory and appurtenant to on site cultivation for commercial cannabis for medical use shall be a conditionally permitted use in the Industrial Commercial (IC), Rural (R) and Natural Resources (NR) designations zoning districts, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by Planning Commission and/or the City Council.
- (e) Stand alone, independent Processing Facilities for commercial cannabis for medical use shall be a conditionally permitted use in the Industrial Commercial (IC) designation zoning district, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by Planning Commission and/or the City Council.
- (f) Extraction manufacturing of commercial cannabis concentrates for medical use shall be a conditionally permitted use in the Industrial Commercial (IC) designation, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by Planning Commission and/or the City Council.



- (g) Manufacturing of edibles (commercial kitchens) for medical use shall be a conditionally permitted use in the Industrial Commercial (IC), Town Center (TC), Neighborhood Center (NC) and Community Commercial (CC) designation subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by Planning Commission and/or the City Council.
- (h) Wholesale Distribution Facilities for commercial cannabis for medical use shall be a conditionally permitted use in the Industrial Commercial (IC) designation, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by Planning Commission and/or the City Council.
- (i) Nurseries, as defined herein, producing commercial cannabis nursery products for retail sale, bulk wholesale sale or to supply retail nursery outlets shall be a conditionally permitted use in the Industrial Commercial (IC), Rural (R) and Natural Resources (NR) designations, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by Planning Commission and/or the City Council.
- (i) Testing laboratories as herein defined shall be conditionally permitted in the Industrial Commercial (IC), Town Center (TC), Neighborhood Center (NC) and Community Commercial (CC) designation subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by Planning Commission and/or the City Council.
- (j) Dispensaries as herein defined shall be conditionally permitted in the Town Center (TC) designation subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by Planning Commission and/or the City Council.
- (k) Other than as enumerated in this Section, the commercial cultivation, processing, manufacturing, testing or distribution of cannabis for medical use in any other zoning district in the City of Rio Dell is prohibited.
- (l) The fact that an applicant possesses other types of state or county or city permits, licenses or other entitlements does not exempt the applicant from the requirement of obtaining a Conditional Use Permit from the City of Rio Dell to engage in the commercial cultivation, processing, manufacturing, testing or distribution of cannabis for medical use within the jurisdiction of the City.
- (m) No more than four commercial cannabis activity permits of any type enumerated in Sections 17.30.195(8)(b) through 17.30.195(8)(g) of this ordinance may be issued to a single person, as defined herein. For purposes of this limitation, any natural person who owns or controls any interest, directly or indirectly, in a firm, partnership, joint venture, association,

cooperative, collective, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, shall be collectively considered a single person with those entities.

#### **(8) Cultivation Locations, Parcel Sizes and Allowable Canopies**

The location of commercial cultivation of cannabis for medical use within the City shall be determined by the zoning designation and the size of the parcel on which the activity is to be conducted in accordance with the following table:

**Table 8.1**  
**Cultivation Locations, Parcel Sizes and Allowable Canopies**

##### **Outdoor (Greenhouse) & Mixed-Light Cultivation** **Rural (R) and Natural Resources (NR) Designations**

State License Type	Parcel Size	Allowable Canopy
Type 1 & 1B, "Specialty Outdoor& Specialty Mixed Light"	< 1 acre	1,000 sq. ft.
	1-2.49 acres	2,000 sq. ft.
	2.5-4.99 acres	5,000 sq. ft.
Type 2 & 2B, "Small Outdoor& Small Mixed Light"	5.0- 19.99 acres	10,000 sq. ft.
Type 3 & 3B, "Outdoor& Mixed Light"	≥ 20 acres	22,000 sq. ft.

##### **Indoor Cultivation** **Industrial Commercial (IC) Designations**

State License Type	Parcel Size	Allowable Canopy
Type 1A, "Specialty Indoor"	< 1 acre	5,000 sq. ft.
Type 2A, "Small Indoor"	1.0- 1.99 acres	10,000 sq. ft.
Type 3A, "Indoor"	≥ 2 acres	22,000 sq. ft.

##### **Indoor Cultivation** **Rural (R) and Natural Resources (NR) Designations**

State License Type	Parcel Size	Allowable Canopy
Type 1A, "Specialty Indoor"	< 1 acre	1,000 sq. ft.
	1-1.99 acres	2,000 sq. ft.
	2.0-4.99 acres	5,000 sq. ft.
Type 2A, "Small Indoor"	5.0- 9.99 acres	10,000 sq. ft.
Type 3A, "Indoor"	≥ 10 acres	22,000 sq. ft.

## Nurseries

Industrial Commercial (IC), Rural (R) and Natural Resources (NR) designations

State License Type	Parcel Size	Allowable Canopy
Type 4, "Nursery"	N/A	43,560 sq. ft. State Limit

- (a) Processing of cannabis that is cultivated pursuant to these regulations may occur at the cultivation site subject to the Processing Performance Standards and Employee Safety Practices enumerated in Section 17.30.195(10) thru 17.30.195(13) are met.
- (b) Multiple applicants may obtain a Conditional Use Permit for outdoor cultivation, mixed-light cultivation, or both, on one legal parcel so long as the cumulative cultivation area is within one contiguous cultivation footprint that does not exceed the total cultivation area size limits set forth in Table 8.1, Cultivation Locations, Parcel Sizes and Allowable Canopies.
- (c) A combination of cultivation types may be allowed in the same zone (e.g. outdoor and, mixed light cultivation, or indoor cultivation and processing) that are for a total area equal to or less than the cultivated area size limit for the size of the underlying parcel.

### **(9) Application Requirements for All MMCLUO Conditional Use Permits:**

- (a) A completed standard application form for a Conditional Use Permit with the required deposit.
- (b) If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement.
- (c) A **Site Plan** shall be submitted showing the entire parcel, including easements, streams and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within ¼ mile (1,320 ft.) of a school, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least 600 feet.
- (d) A **Plan of Operations** shall be submitted that includes, describes and addresses the following:
  - (i) A complete project description including the proposed use(s), hours and days of

operation, number of employees, and the duration (temporary, seasonal or permanent) of the operation.

(ii) The number of daily and/or weekly incoming and outgoing deliveries

(iii) A Security Plan that addresses the cultivation, storage, processing, manufacturing and testing of any medical cannabis, including but not limited to video monitoring and commercial alarm systems.

(iv) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.

(v) A description of the storage or use of any solvents, fertilizers, pesticides, fungicides, rodenticide, or herbicides.

(vi) A description of any discharge or emissions the operation will generate.

(vii) A description of any noise level increase as a result of the operation.

(viii) A description of the operation's use of public facilities such as roads, water or sewer systems.

(ix) A description of any proposed water source, storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection.

(e) **Tribal Consultation:** For any ground disturbing activities, acknowledge that the City will consult with the local Wiyot Tribe, including their Tribal Historic Preservation Officer (THPO) or other tribal representatives, before the approval of any Conditional Use Permit. During this process, the tribe may request that operations associated with the Conditional Use Permit be designed to avoid, minimize or mitigate impacts to Tribal Cultural Resources, as defined herein. Examples include, but are not limited to: conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern.

(f) **Community Relations:** Each medical marijuana facility shall provide the City Manager or designee with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom the City can provide notice if there are operating problems associated with the medical marijuana facility or refer members of the public who may have any concerns or complaints regarding the operation of the medical marijuana facility. Each medical marijuana facility shall also

provide the above information to its business neighbors located within 100 feet of the medical marijuana facility.

(g) Consent to a to a minimum of at least one quarterly on-site compliance inspection, to be conducted by appropriate City officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The applicant shall be required to pay the Inspection Fee in effect at that time.

(h) Compliance with the provisions of the Medical Marijuana Regulation and Safety Act.

**(10) Performance Standards for all MMCLUO Cultivation Operations:**

(a) No surface water withdrawals shall be allowed as part of any cultivation operations.

(b) No Timberland Conversion Permits or Exemptions as approved by the California Department of Forestry and Fire Protection (CAL-FIRE) shall be used to facilitate the cultivation of medical cannabis.

(c) The area of cannabis cultivation shall be located as shown on the application site plan, set back at least 50 feet from any property line, and 600 feet from any School. Cannabis cultivation is declared to be development, subject to compliance with Section 17.30.110, Environmentally Sensitive Habitat Area's (ESHA's). For purposes of this section, where enhanced, reduced, or modified watercourse or wetland setbacks have been agreed to by the operator and the RWQCB under enrollment pursuant to NCRWQB Order No. 2015-0023 and/or preparation of a Water Resources Protection Plan, these may control and supersede any setback applied pursuant to Section 17.30.110.

(b) Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board Order No. 2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the City of Rio Dell or other responsible agency.

(c) For cultivation areas for which no enrollment pursuant to NCRWQB Order No. 2015-0023, is required by that Order, compliance with the standard conditions applicable to all Tier 1 dischargers.

(d) The storage or use of any fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be in compliance with the manufacture's recommendations and regulations administered by the State Department of Pesticide Regulation. Hazardous materials and wastes from agricultural businesses are regulated by the Humboldt County Environmental Health Division, which administers the Hazardous Materials program as one of the Certified Unified Program Agencies (CUPA). This includes the application, inspection, enforcement, and



reporting under the program requirements and standards set by the California Environmental Protection Agency (CalEPA).

- (e) Trucked water shall not be allowed as the primary water source. Water is to be sourced locally (on-site), except for emergencies. For purposes of this provision, "emergency" is defined as: "a sudden, unexpected occurrence demanding immediate action."
- (f) Carbon filter fans or equivalent superior filters/scrubbers shall be required to minimize or eliminate odor discharges to neighboring properties from cultivation and processing facilities.
- (g) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.
- (h) Those cultivators using artificial lighting for mixed-light cultivation shall shield greenhouses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise. Should the City receive complaints that the lighting is out of alignment or not complying with these standards, within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment has been repaired, inspected and corrected as necessary.
- (i) Generators are only allowed as an emergency back-up power source. The noise produced by a generator used for cannabis cultivation shall not be audible from neighboring residences. The decibel level for generators at the property line shall be no more than 60 decibels.
- (j) Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, and in such a way that no spillage occurs.
- (k) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

**(11) Employee Performance Standards for Cultivation and Processing Activities:**

- (a) Pursuant to the MMRSA, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."

- (b) Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA and the California Agricultural Labor Relations Act.
- (c) Cultivators engaged in processing shall comply with the following Processing Practices:
- i. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment; and
  - ii. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis; and
  - iii. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function; and
  - iv. Employees must wash hands sufficiently when handling cannabis or use gloves.
- (d) All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
- i. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
    - Emergency action response planning as necessary; and
    - Employee accident reporting and investigation policies; and
    - Fire prevention;
    - Hazard communication policies, including maintenance of material safety data sheets (MSDS); and
    - Materials handling policies; and
    - Job hazard analyses; and
    - Personal protective equipment policies, including respiratory protection.
  - ii. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:

- Operation manager contacts; and
  - Emergency responder contacts; and
  - Poison control contacts.
- iii. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
  - iv. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
- (e) All cultivators shall, at the time of the application for a cultivation permit, include a Processing Plan with all of the following:
- i. Summary of Processing Practices.
  - ii. Description of location where processing will occur.
  - iii. Estimated number of employees, if any.
  - iv. Summary of Employee Safety Practices.
  - v. Description of toilet and handwashing facilities.
  - vi. vi. Description of plumbing and/or septic system and whether or not the system is capable of handling increased usage.
  - vii. Description of source of drinking water for employees.
  - viii. Description of increased road use resulting from processing and a plan to minimize that impact.
  - ix. Description of on-site housing, if any.



**(12) Performance Standards for Manufacturing Activities:**

- (a) Compliance with CAL/OSHA, OSHA regulations.
- (b) Compliance with State and local building regulations, including the California Building Code (CBC) and the California Fire Code (CFC).
- (c) A Security Plan that addresses how the following measures shall be implemented or complied with:
  - (i) Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the City Manager or designee. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, processing areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the City Manager or designee.
  - (ii) The facility shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the City Manager or designee that is operated and monitored by a recognized security company, deemed acceptable by the City Manager or designee. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical marijuana facility's security company shall be provided to the city manager or designee.
  - (iii) Entrance to the extraction areas and any cannabis storage areas shall be locked at all times, and under the control of facility staff.
  - (iv) Medical marijuana shall be stored in buildings that are completely enclosed, and in a locked vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.
  - (v) Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the Code.
- (d) If using CO<sub>2</sub> in processing, a professional grade closed-loop CO<sub>2</sub> gas extraction system rated to a minimum of fifteen thousand (15,000) pounds per square (PSI) is required for every vessel in the system.

- (e) Extraction processes shall use a commercially manufactured professional grade closed-loop extraction system designed to recover the solvents and built to codes of recognized and generally accepted sound engineering practices, such as (i) The American Society of Mechanical Engineers (ASME); (ii) American National Standards Institute (ANSI); (iii) Underwriters Laboratories (UL); or (iv) The American Society for Testing and Materials (ASTM).
- (f) Volatile extraction operations shall occur in a spark-proof, explosion-proof room equipped with evacuation fans and lower explosive limit (LEL) detectors.
- (g) Carbon filter fans or equivalent superior filters/scrubbers shall be required to minimize or eliminate odor discharges to neighboring properties.
- (h) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.
- (i) Manufacturers of edibles shall comply with the regulations in the California Health and Safety Code, which includes the California Retail Food Code administered by the California Department of Health Services - Food and Drug Branch, California Department of Food and Agriculture and the County Department of Environmental Health.
- (j) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

### **(13) Performance Standards for Testing Laboratories**

- (a) The facility shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the City Manager or designee that is operated and monitored by a recognized security company, deemed acceptable by the City Manager or designee. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical marijuana facility's security company shall be provided to the city manager or designee.
- (b) Entrance to the lab area and any cannabis storage areas shall be locked at all times, and under the control of facility staff.
- (c) Medical marijuana shall be stored in a secured and locked room, vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.

- (d) Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the California Building Code.
- (e) All laboratory testing facilities shall comply with Sections 19341 through 19345 of the California Business and Professions Code.
- (f) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

#### **(14) Performance Standards for Dispensaries**

- (a) The facility shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the City Manager or designee that is operated and monitored by a recognized security company, deemed acceptable by the City Manager or designee. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical marijuana facility's security company shall be provided to the City Manager or designee.
- (b) Entrance to the any cannabis storage areas shall be locked at all times, and under the control of facility staff.
- (c) Medical marijuana shall be stored in a secured and locked room, vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.
- (d) Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the Code.
- (e) No dispensing location for the collective shall be open between the hours of 8:00 p.m. and 9:00 a.m. on any given day.
- (f) Only qualified patients, as defined in Section 11362.7 of the Health and Safety Code are allowed in dispensaries.
- (g) Medical marijuana may not be inhaled, smoked, eaten, ingested, vaped, or otherwise used or consumed at the premises and/or location.
- (h) The sales of pipes, including water pipes and other paraphernalia are prohibited.

- (i) In addition to the labeling requirements of Section 19347 of the Business and Professions Code, all medical marijuana shall be packaged in an opaque childproof container which shall be accompanied by a leaflet or insert that clearly states the following:
- (i) The complete legal name of the qualified patient who will be using the medical marijuana;
  - (ii) The name, address and on-site landline telephone number of the dispensary;
  - (iii) The amount of medical marijuana in the container;
  - (iv) The name of the attending physician recommending the use of medical marijuana for the qualified patient;
  - (v) The date the medical marijuana was provided;
  - (vi) A list of the chemicals and or substances that were used during the processing of the medical marijuana;
  - (vii) All necessary health and safety warnings, including, but not limited to direction that the medical marijuana be stored in a clean and dry place and out of the reach of children; and
  - (viii) A statement that the City of Rio Dell neither warrants nor guarantees the quality or safety of the medical marijuana contained therein.
- (j) All edible medical marijuana products sold within the City of Rio Dell shall be placed in opaque packaging, without photos or images of food on the label. Packaging that makes the edible product attractive to children or imitates candy is not allowed. Edible medical marijuana products shall not imitate commercially produced goods marketed to children. The edible product must be accompanied by a leaflet or insert that clearly states the source/provider of the food production in addition to all of the information required by Subsection 17.30.095(14)(i).
- (k) A sign shall be posted in a conspicuous location inside the premises advising the following: "Both the sale of marijuana and the diversion of marijuana for nonmedical purposes are violations of state law. The use of marijuana may impair a person's ability to operate a motor vehicle or heavy machinery. Loitering at the location of a medical marijuana collective for an illegal purpose is prohibited by California Penal Code Section 647(h). This collective is registered in accordance with the laws of the State of California and the City of Rio Dell."

**(15) Term of Conditional Use Permit; Inspections.**

- (a) Any Conditional Use Permit issued pursuant to this section shall expire after one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless the required compliance inspections have been conducted and the permitted site has been found to comply with all conditions of approval.
- (b) If the inspector or other City official determines that the site does not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request reinspection or to cure any items of noncompliance shall terminate the Conditional Use Permit and License, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.
- (c) The City shall notify any state license authority, as defined by the MMRSA, whenever the Conditional Use Permit and License has been revoked or terminated.

**(16) Appeal of Annual Inspection Determination**

Within ten (10) business days after delivery of the statement of non-compliance, the determination by the inspector that the site is or is not in compliance may be appealed by any interested party to the Planning Commission. The appeal shall be made, in writing, on a form provided by the City. The fee for filing the appeal is based on the adopted fee schedule in effect at the time of the appeal.

- (a) The appeal shall be heard by the Planning Commission within thirty (30) days following the filing of the appeal. The Planning Commission shall render a written ruling on the appeal within three (3) business days following the hearing.
- (b) The decision of the Planning Commission may be appealed to the City Council in accordance with Section 17.35.050 of the Rio Dell Municipal Code. If a timely appeal to the City Council is not filed, the ruling by the Planning Commission shall be final.

## **Section 2. Severability**

If any provision of the ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

## **Section 3. Limitation of Actions**

Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

## **Section 4. Effective Date**

This ordinance becomes effective thirty (30) days after the date of its approval and adoption.

**I HEREBY CERTIFY** that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on \_\_\_\_\_, 2016 and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the \_\_\_\_\_, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Frank Wilson, Mayor

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Ordinance No. 342-2016 which was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the \_\_\_\_\_, 2016.

\_\_\_\_\_  
Karen Dunham, City Clerk, City of Rio Dell